

# MEMORANDUM

August 15, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MARK WEINSTEIN, ESQ.  
Veatch Huang

NARBEH BAGDASARIAN  
Deputy County Counsel  
Health Services Division

RE: Agaron Tavitian v. County of Los Angeles  
Los Angeles County Superior Court, Case No. TC017243

DATE OF  
INCIDENT: July 31, 2002

AUTHORITY  
REQUESTED: \$199,000.00

COUNTY  
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

---

## CLAIMS BOARD ACTION:

☐


Approve

☐

Disapprove

☒

Recommend to Board of  
Supervisors for Approval



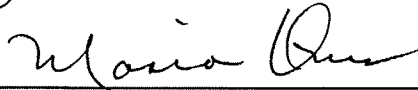
ROCKY ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on September 5, 2006

## **SUMMARY**

This is a recommendation to settle for \$199,000.00, the medical negligence lawsuit brought by Agaron Tavitian for the injuries he sustained while hospitalized at MLK/Drew Medical Center.

## **LEGAL PRINCIPLES**

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

## **SUMMARY OF FACTS**

On July 31, 2002, plaintiff, Agaron Tavitian, a 32-year-old male, was injured in a motor vehicle accident. He was taken to MLK/Drew Medical Center via ambulance. Medical evaluation revealed that Mr. Tavitian had a fracture in his right femur (the thigh bone). Mr. Tavitian was scheduled to undergo surgery to repair the fracture in his right leg.

The surgery was performed on August 1, 2002. The records reflect that the anesthesia began sometime between 2:04 p.m., and 2:09 p.m. and the actual surgical procedure commenced at around 3:25 p.m., and ended at 7:10 p.m.

During the actual operation, a metal nail was placed in the right leg to fix the fractured bone. The left leg was placed in a holder (a device to hold the leg during the operation), and padding material was used to keep the leg in the holder. It is, however, unclear how the left leg was positioned during the surgery. The medical records are not completely clear as to the manner in which the left leg was placed in the holder, the type of the padding material used, the way the padding material was placed and the actual position and condition of the left leg during the operation.

After the operation, the patient began to experience pain in his left leg. By August 3, 2002, Mr. Tavitian was suffering from pain, numbness and weakness in his left leg. The impression of the personnel was that the patient was suffering from left foot drop (weakness and numbness in the foot due to injury to the nerves in the foot area) which was likely due to the positioning of the left leg during the August 1, 2002 operation.

Further medical evaluation showed that Mr. Tavitian was suffering from permanent left peroneal nerve injury (the peroneal nerve is one of the main nerves in the leg). There is no evidence in the medical records to indicate that Mr. Tavitian had any signs of nerve injury in his left leg prior to the August 1, 2002 surgery.

## **DAMAGES**

If this matter proceeds to trial, the claimant will likely seek the following:

Pain and Suffering (MICRA Limit)	\$250,000.00
Lost Earnings (past and future), estimate	<u>\$550,000.00</u>
<b>TOTAL</b>	<b>\$800,000.00</b>

The proposed settlement includes:

Pain and Suffering	\$115,100.00
Attorneys Fees (MICRA Estimate)	\$ 53,900.00
Costs of Litigation	\$ <u>30,000.00</u>
<b>TOTAL</b>	<b>\$199,000.00</b>

## **STATUS OF CASE**

Plaintiff, Agaron Tavitian, brought this medical malpractice lawsuit against the County of Los Angeles. The current trial date has been vacated pending approval of this settlement.

This matter involved complex medical questions and issues surrounding the care and treatment rendered to Agaron Tavitian at MLK/Drew Medical Center. In addition to the normal discovery in such matters, it was necessary to retain several medical experts to review the care rendered by the County personnel and the extent and cause of the plaintiff's injuries.

Expenses incurred by the County of Los Angeles in the defense of this case through February 7, 2006, are attorneys fees of \$112,653.41 and \$57,693.09 in costs.

The total cost to the County of Los Angeles, as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$199,000.00
County Attorneys Fees and Costs	<u>\$170,346.50</u>
<b>TOTAL</b>	<b>\$369,346.50</b>

## EVALUATION

Settlement is recommended because medical experts will be unable to offer a non-negligent explanation for the nerve injury in plaintiff's left leg. Although there is some dispute as to the facts, the inability of the County to provide an alternate explanation for the plaintiff's injuries will certainly subject the County to liability in this matter. Here, medical experts agree that the injury to the nerve in plaintiff's left leg, to a reasonable degree of medical probability, occurred during the August 1, 2002 surgery. The plaintiff contends that during the lengthy operation on August 1, 2002, the plaintiff's left leg was positioned inappropriately and was not monitored regularly. The failure of the medical record to document that the plaintiff's leg was positioned and maintained properly will preclude the County from arguing that medical personnel properly managed the plaintiff's leg.

We join with our private counsel, Mark Weinstein, Esq., and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$199,000.00.

The Department of Health Services concurs in this settlement.

APPROVED:



RICHARD K. MASON  
Assistant County Counsel

NB:bdv